



**THE CITY OF NEW YORK
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December 2, 2021

Via ECF

Hon. Leda Dunn Wettre, U.S.M.J.
United States District Court, District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07101

Re: City of Newark et al. v. City of New York et al.
Case No. 2:19-cv-20931-MCA-LDW

Dear Judge Wettre:

As counsel for Defendants the City of New York, Mayor Bill de Blasio, and Commissioner Steven Banks (collectively, “NYC”) in the above-referenced action, we submit this status letter in advance of the December 9, 2021 status conference in accordance with the October 6, 2021 Amended Scheduling Order [ECF No. 147] (“October 6 Order”).

NYC’s Compliance with October 6 Order

Pursuant to paragraphs 2 and 5 of the October 6 Order, NYC produced its remaining documents by October 15, 2021 and served deposition notices for the City of Newark (“Newark”) and the City of Jersey City (“Jersey City”) witnesses on October 27, 2021.

Newark and Jersey City’s Lack of Compliance with October 6 Order

Despite the October 6 Order’s directives to Newark and Jersey City (*see* ¶¶ 1, 2, 4), (1) Newark has failed to complete its document production, which remains partial; (2) Newark has not responded to NYC’s July 28, 2021 deficiency letter to Newark, which identified inadequacies in Newark’s interrogatory responses; and (3) Jersey City has failed to respond to NYC’s separate July 28, 2021 deficiency letter to Jersey City, which identified inadequacies in Jersey City’s interrogatory responses, document responses, and document production.

Neither Newark nor Jersey City served deposition notices on NYC.

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NYC's Follow-up Correspondence and Parties' Meet and Confers

By letters dated November 3, 2021, NYC followed up with Newark and Jersey City concerning their outstanding written discovery and identified deficiencies in Newark's document production to date.

By email dated November 15, 2021, NYC requested a meet and confer with Newark, Jersey City, and the Putative Class of Future Affected Tenants' ("Tenants"), which was conducted by phone on November 19, 2021. At that time, Jersey City stated that it would endeavor to provide responses to NYC's July 28, 2021 deficiency letter no later than December 3, 2021. The parties scheduled a second meet and confer for November 29, 2021, at which Newark, Tenants and NYC appeared by phone. Jersey City apparently was unable to attend. Newark stated that it would seek to continue rolling productions of documents and attempt to provide responses to the outstanding written discovery over the next week and a half. Newark, Tenants and NYC scheduled a further meet and confer for December 7, 2021, to which Jersey City was also invited.

Judge Arleo's October 29 Ruling on Motions to Dismiss, and Tenants' Continued Participation in Litigation

On October 29, 2021, Judge Arleo issued an Order, which dismissed Newark's dormant Commerce Clause claims against NYC, but permitted Newark's public nuisance claim against NYC to proceed. *See* ECF No. 153, at 6–7. In the same Order, Judge Arleo denied Newark's motion to dismiss the Tenants' claims that Newark's Ordinance violates the New Jersey Law Against Discrimination and the constitutional right to travel. *See id.*, at 7–9.

Tenants served a deposition notice on Newark on October 27, 2021 and served document demands on Newark on November 4, 2021. Issue was joined in this suit when Newark served its answer to the Tenants' complaint on November 22, 2021. *See* ECF No. 156.

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NYC respectfully requests an additional adjournment of the end-date for fact depositions in this matter, to permit NYC to take the depositions of witnesses from Newark and Jersey City with complete document productions from plaintiffs and responses to NYC's various deficiency letters, as contemplated by the October 6 Order, to be followed by expert discovery in the manner set forth in NYC's July 30 status letter [ECF No. 142].

Respectfully submitted,

/s/

Anjan Mishra

Doris F. Bernhardt*

*Appearing *pro hac vice*